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02 2007 JUN 26 A. G. L. hereby certify that the
03 annexed instrument is a true
04 and correct copy of the original
05 MERRI P. HACKETT, Clerk, U.S. District Court
06 MIDDLE DISTRICT ALABAMA, U. S. District Court
07 or Clerk, U.S. District of Washington
08 *Merrily O. Ledlow*
09 Deputy Clerk

07
08 UNITED STATES DISTRICT COURT
09 WESTERN DISTRICT OF WASHINGTON
10 AT SEATTLE

11 BILL LIETZKE,) Case No. C07-889-RSL
12 Plaintiff,) 2007cv588-1D
13 v.) ORDER TRANSFERRING CASE
14 CITY OF MONTGOMERY, et al.,)
15 Defendants.)
16 _____)

17 Plaintiff Bill Lietzke, appearing *pro se*, has filed an application to proceed *in forma*
18 *pauperis* and a proposed 42 U.S.C. § 1983 civil rights complaint against the City of
19 Montgomery, Alabama, and several of its law enforcement officials. Dkt. No. 1-1. After
20 careful consideration of the complaint, governing law, and the balance of the record, the
Court finds that venue is improper, and ORDERS that this case be TRANSFERRED to the
United States District Court for the Middle District of Alabama.

21 A. The Complaint

22 Plaintiff's complaint alleges that from June 9, 1997, through March 4, 2007, the City
23 of Montgomery, through several of its police officers, repeatedly harassed him on several of
24 the public streets of Montgomery. Dkt. No. 1-1 at 5-21. The complaint alleges that
25 plaintiff's First Amendment rights of free speech and assembly were violated, and states
causes of action for negligence, criminal trespass, false imprisonment, assault, harassment,

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01 and menacing. *Id.* at 21-24. Plaintiff seeks the immediate imprisonment of the named
 02 individual defendants, more than one billion dollars in compensatory damages, and an
 03 "immediate shut down" of the "intersections of Grove Street at South Court Street, and Grove
 04 Street at South McDonough Street." *Id.* at 4.

05 B. Improper Venue

06 Venue for actions not based solely on diversity of citizenship is determined by 28
 07 U.S.C. § 1333(b), which states:

08 A civil action wherein jurisdiction is not founded solely on diversity of
 09 citizenship may, except as otherwise provided by law, be brought *only* in (1) a
 10 judicial district where any defendant resides, if all defendants reside in the
 11 same State, (2) a judicial district in which a substantial part of the events or
 12 omissions giving rise to the claim occurred, or a substantial part of property
 13 that is the subject of the action is situated, or (3) a judicial district in which any
 14 defendant may be found, if there is no district in which the action may
 15 otherwise be brought.

16 28 U.S.C. § 1333(b) (emphasis added).

17 Here, each of the named defendants—the City of Montgomery, Mayor Bobby Bright,
 18 Police Chief Art Baylor, and Walter Byers—reside in the State of Alabama, not the State of
 19 Washington. Furthermore, all of the events or omissions giving rise to the claims in
 20 plaintiff's complaint occurred in Alabama, not Washington. Accordingly, venue is not proper
 21 in the United States District Court for the Western District of Washington.

22 Title 28 U.S.C. § 1406(a) provides that "[t]he district court of a district in which is
 23 filed a case laying venue in the wrong division or district shall dismiss, or if it be in the
 24 interest of justice, transfer such case to any district or division in which it could have been
 25 brought." Because the defendants reside in Alabama, and because all of the acts or omissions
 26 giving rise to plaintiff's claims occurred in Alabama, this action could have been brought in
 the United States District Court for the Middle District of Alabama. The Court finds that a
 transfer to the United States District Court for the Middle District of Alabama is in the
 interests of justice.

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C. Conclusion

The Clerk of Court is directed to TRANSFER this case to the United States District Court for the Middle District of Alabama pursuant to 28 U.S.C. § 1406(a). As a result, plaintiff's application to proceed *in forma pauperis* (Dkt. No. 1) is DENIED as MOOT.

05 The Clerk of Court is further directed to send a copy of this Order to plaintiff and to
06 the Honorable James P. Donohue, United States Magistrate Judge.

DATED this 19th day of June, 2007.

Mrs Casnik

**Robert S. Lasnik
United States District Judge**

Recommended for entry
this 19th day of June, 2007.

/s/ JAMES P. DONOHUE
United States Magistrate Judge

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